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In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 434

CHARLES E. LEGGETT, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the court of appeals (App. 92-96)[1]. is reported at 269 F. 2d 35.

JURISDICTION

The judgment of the court of appeals was entered on June 23, 1959 (App. 97). A petition for rehearing was denied on September 1, 1959 (App. 98). The petition for a writ of certiorari was filed on

[1] "App." refers to the Appendix filed in the court of appeals.

September 28, 1959. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the causing of the interstate transportation of a stolen car is an offense under the laws of the United States.

STATUTES INVOLVED

18 U.S.C. 2(b):

> Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

18 U.S.C. 2312:

> Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same to have been stolen, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

STATEMENT

Following a waiver of jury trial, petitioner was convicted on two counts charging him with transporting and causing to be transported in interstate commerce on or about December 26, 1957 (count 1), and on or about January 20, 1958 (count 2), a stolen car, with knowledge that it had been stolen (App. 3-4). He was sentenced to a general term of imprisonment of one year and one day (App. 5). On appeal, the judgment of conviction was affirmed (App. 97).

The government adduced at the trial evidence to show the following:

On June 29, 1957, in Denver, Colorado, petitioner rented from a car rental agency a 1957 Cadillac convertible, Motor No. 5762026731 (App. 4-15). In December of that year, he reported that the car had been stolen (App. 32).

In November 1957, petitioner, using the name Turnbull, registered a 1957 Cadillac convertible under Motor Number 5762041009 and under that number transferred it to the Anderson Motor Company of Xenia, Ohio (App. 55, 56-71), with whom petitioner had been working in buying and selling automobiles (App. 18, 22).

In December 1957, Wright, an automobile salesman in Chicago, asked petitioner if he could help him find a Cadillac convertible for a prospective buyer (App. 40). Petitioner told Wright to get the car at Xenia, Ohio, and called Mr. Anderson to tell him that Wright was coming down to get it (App. 40-41). On December 26, 1957, Wright drove the car from Ohio to Chicago (App. 40-41). When Wright's prospective sale did not go through, he called petitioner who told him to leave the car at O'Hare Field in Chicago. Wright gave the keys to petitioner (App. 42).

Within a few days, G. R. Finley, the service manager of the Anderson Motor Company, picked up the car at the Field and returned it to the Anderson garage (App. 22), having received the keys for the car from petitioner (App. 23).

In January 1958, Finley drove the car to Chicago for the purpose of selling it to another prospective customer of Mr. Wright. When they went down to the parking place to see the car it was gone. Its loss was immediately reported to the police (App. 23-24). A 1957 Cadillac convertible found by the police later that month in Wheeling, Illinois, had a motor number of 5762041009 but its frame number was 5762026731. Cadillacs have the same number on both frame and motor (App. 7-10).

ARGUMENT

Petitioner contends that 18 U.S.C. 2312 does not include the "causing" of the interstate transportation of a stolen automobile since the statute covers "whoever transports in interstate * * * commerce" such a vehicle and does not use the word "cause." However, 18 U.S.C. 2(b) provides that a person who causes a criminal act to be done is liable as a principal. As the reviser's notes to Section 2(b) indicate, this section was added to make it unnecessary to use the words of causation in the substantive criminal statutes. 18 U.S.C. 2(b) was intended to apply to "anyone who causes the doing of an act which if done by him directly would render him guilty of an offense against the United States." See also *United States* v. *Sheridan*, 329 U.S. 379, 391.

CONCLUSION

It is respectfully submitted that the petition for a writ of certiorari should be denied.

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